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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,850	04/14/2004	Bertram V. Burke	EPC 220U	5510
7590	11/16/2005		EXAMINER KOYAMA, KUMIKO C	
Bertram V. Buke 1434 SW 51st Lane Cape Coral, FL 33914			ART UNIT 2876	PAPER NUMBER

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H.A

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/823,850	BURKE, BERTRAM V.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kumiko C. Koyama	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 2-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>0905</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

Amendment received on September 19, 2005 has been acknowledged.

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 19, 2005 has been entered.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 2-7, 11, 13-17, 21, 23-25 and 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphree et al (US 5,732,136) in view of Planke (US 5,902,984).

Re claims 2, 3 and 13: Murphree discloses that to activate a debit card with a balance representing an amount a consumer wishes to attribute to the debit card, the card number and the encrypted ID property stored on the debit card are retrieved via the merchant's terminal by an appropriate card reader so as to provide a retrieved card number and a retrieved encrypted ID

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property. A clerk then inputs an amount a consumer wishes to attribute to the debit card via the merchant's terminal keypad (col 1, lines 40-47). Murphree further teaches that the card is successfully activated and an account associated with the retrieved card number will be credited with the amount keyed into the merchant's terminal by the clerk (col 1, lines 59-62). Such disclosure teaches activating and issuing a merchandise card to a customer with an individual account identifier at a remote terminal. Such disclosure also teaches activating an account associated with a customer and allowing the customer to use the merchandise card to enter a cash value. Murphree teaches that when making a transaction, the debit card 10 is passed through the card reader 52 to read the encrypted data fields, such as merchant ID and card number (col 4, lines 7-9). If the data fields do match the associated ID properties, then the intelligent network platform 16 accepts the transaction and debits or credits the account balance associated with the card number (col 5, lines 23-28). Such disclosure teaches accepting a cash value at the purchasing station, and the account is debited based on the cash value. An intelligent network platform 16 is an account processor that activates the cards, a computer which is loaded with a database program 20 and serving as a server, and a merchant's terminal, which is a purchasing station (col 2, lines 54-60).

Murphree fails to teach selling a percentage of inventories wherein the percentage of inventory comprises proxy merchandise that is exchangeable for other merchandise from the merchant's inventory, and calculating and reporting average historical costs associated with sales of the inventory.

Planke discloses a system for sale of consumer goods, where the purchaser of an article at a place of purchase collects one or more non-validated card symbol of the article on a readable

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card, where data carried on the symbol of the article on a readable card are read and registered, where such data are converted to an article price which is paid by the purchaser of the article, where the purchaser of the article receives a validated symbol of the article, and where the article is dispensed to the purchaser at a dispensing location in return for his/her depositing the validated symbol of the article on a readable card, the symbol of the article subsequently being invalidated. In this case, the validated symbol of the article on the readable card is a proxy merchandise that is exchangeable for other merchandise (the dispensed article) from the merchant's inventory. Planke also teaches adding article prices to the bill that is to be paid in cash by the consumer (col 1, lines 34-35) and a cash receipt (col 1, lines 40-45). Such disclosure teaches calculating and reporting average historical costs associated with sales of the inventory.

Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the teachings of Planke to the teachings of Murphree in order to purchase a merchandise utilizing a merchant debit card because merchant debit card encourages the customer to utilize a specific store, which increases store profit by increasing recurring customers, as well as providing the convenience of having cashless transactions.

Re claims 6 and 16: As described above, Murphree teaches an account associated with the retrieved card number.

Re claims 7 and 17: As described above, Murphree teaches a merchant's terminal.

Re claims 11 and 21: As described above, Planke also teaches adding article prices to the bill that is to be paid in cash by the consumer (col 1, lines 34-35) and a cash receipt (col 1, lines 40-45).

Re claims 23 and 30: Since the merchandise as described in Planke is party of the merchant's inventory, the merchandise is at least a portion of the percentage of inventory.

Re claims 4, 14, 24 and 31: As described above, Murphree teaches that the card is successfully activated and an account associated with the retrieved card number will be credited with the amount keyed into the merchant's terminal by the clerk. Therefore, the account is maintained by the merchant, and the purchasing station is operated by the merchant.

Re claims 5 and 15: As described above, Murphree discloses that to activate a debit card with a balance representing an amount a consumer wishes to attribute to the debit card, the card number and the encrypted ID property stored on the debit card are retrieved via the merchant's terminal by an appropriate card reader so as to provide a retrieved card number and a retrieved encrypted ID property. A clerk then inputs an amount a consumer wishes to attribute to the debit card via the merchant's terminal keypad. Therefore, Murphree teaches that the merchant is a card issuer.

Re claims 25 and 32: Murphree teaches that the account is maintained by intelligent network platform having computer which is loaded with a database program (col 2, lines 54-60), and the purchasing station is a merchant's terminal interface unit (col 2, lines 54-60).

4. Claims 8, 9, 10 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphree in view of Planke as applied to claims 3 and 13 above, and further in view of Gomm et al (US 5,753,899). The teachings of Murphree as modified by Planke have been discussed above.

Gomm fails to teach a cash register and the debiting station comprises a cash register.

Gomm teaches a cash register having a reader/writer (col 7, lines 8-20), wherein the cash register performs the debiting transaction of a smart card (col 7, lines 20-35).

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Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the teachings of Gomm to the teachings of Murphree as modified by Planke in order for debiting to occur at the same place as the location where the merchandise is exchanged , such that multiple process can be performed in once place to quickly acquire the merchandise.

5. Claims 12 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphree in view of Planke as applied to claim 3 and 13 above, and further in view of Brett (US 6,907,405). The teachings of Murphree as modified by Planke have been discussed above.

Murphree as modified by Planke fails to teach a revenue producing sale and a net profit equivalent to the difference between the cash value and the average historical data.

Brett teaches revenue from sales and a difference between the original sale price and the market value, and such difference affects the revenue from sales.

Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the teachings of Brett to the teachings of Murphree as modified by Planke in order to analyze the sales revenue to ensure that a profit is being made and the profit is being maximized by gaining as much as profit as possible.

6. Claims 26-29 and 33-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphree in view of Planke as applied to claims 3 and 13 above, and further in view of Moore (US 6,847,938). The teachings of Murphree as modified by Planke have been discussed above.

Murphree as modified by Planke fails to teach the exchanging comprises exchanging at a remote terminal or an online terminal.

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Moore teaches a system for coordinating the exchange of items via a communication network and the system comprising a plurality of remote terminals, each remote terminals having an input devices for entering data (col 13, lines 15-65).

Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the teachings of Moore to the teachings of Murphree as modified by Planke in order to complete an exchange online, such that the items can be delivered to the customer's home directly, and thereby the customer does not have to carry heavy items back home on their own, which takes time and effort.

### *Response to Arguments*

7. Applicant's arguments with respect to claims 2-22 have been considered but are moot in view of the new ground(s) of rejection.

### *Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Cuervo, U.S. Patent Application Publication No. 2001/0047342, discloses credit or debit cards of all kinds to be issued with a bank savings account attached.

Chew et al., U.S. Patent Application Publication No. 2003/0225625, discloses returns management systems and methods therefor.




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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kumiko C. Koyama whose telephone number is 571-272-2394. The examiner can normally be reached on Monday-Friday 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Kumiko C. Koyama  
November 14, 2005

  
KARL D. FRECH  
PRIMARY EXAMINER